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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,121	08/08/2001	Millard E. Sweatt III	22407-05497	5875
758	7590	12/19/2005	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			JOO, JOSHUA	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/925,121	Applicant(s) SWEATT ET AL.	
	Examiner Joshua Joo	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-31 are presented for examination.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, 29, are drawn to device controlling, classified in class 709, subclass 208.
- II. Claims 12-24, 30, 31, are drawn to remote data accessing, classified in class 709, subclass 217.
- III. Claims 25-28, are drawn to simulation of a device, classified in class 703, subclass 4

2. Inventions I, II, and III are related as subcombinations disclosed together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

Invention I discloses receiving a request for data from at least one first server; responsive to the request received, querying a data source to extract the data for operating the media device; periodically sending the data extracted to the first server, the first server being communicatively coupled to the network; and periodically transmitting the data from the first server to the media device over the network, which are not found in Inventions II and III.

Invention II discloses monitoring data disposed on a first server until ready for transfer to a second server, responsive to data being ready, requesting data from the first server; receiving data transferred from the server, receiving commands from a first server to operate the media

Art Unit: 2154

device; and executing commands to control the media device, which are not found in Inventions I and III.

Invention III discloses a server enabling the media devices to be distributed with a load-balanced configuration; maintaining a virtual representation of one or more user interfaces; and simulating operation of the media devices based on portions of the user interfaces being selected, which are not found in Inventions I and II.

3. Because these inventions are distinct for the reasons given above and a search for Group I is not required for Groups II and III, search for Group II is not required for Groups I and II, and search for Group III is not required for Groups I and II, restriction for examination purposes as indicated is proper. See also MPEP § 806.05(d).

4. During a telephone conversation with attorney Bradley J. Hulbert on November 28, 2005, an election was not made at the time. An election must be made by the applicant in replying to this Office Action.

Conclusion

5. A shortened statutory period for reply to this Office action is set to expire ONE MONTHS from the mailing date of this action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966 and fax number is 571 273-3966. The examiner can normally be reached on Monday to Thursday 8 to 5:30.

Art Unit: 2154

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571 272-3964.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 6, 2005

JJ


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100